

2013 DRAFTING REQUEST

Bill

Received: **1/17/2013** Received By: **mshovers**
Wanted: **As time permits** Same as LRB:
For: **André Jacques (608) 266-9870** By/Representing: **Jamie**
May Contact: Drafter: **mshovers**
Subject: **Local Gov't - zoning** Addl. Drafters: **rkite**
Nat. Res. - wet/shore/flood
Extra Copies: **EVM**

Submit via email: **YES**
Requester's email: **Rep.Jacque@legis.wisconsin.gov**
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Authorize towns to withdraw from county zoning

Instructions:

See attached. Based on 2005 AB 326, and attached modifications.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mshovers 3/13/2013			_____			
/1	mshovers 5/28/2013	evinz 3/14/2013	phenry 3/14/2013	_____	lparisi 3/14/2013		Local
/2		evinz 5/30/2013	rschluet 5/30/2013	_____	srose 5/30/2013	lparisi 10/30/2013	Local

FE Sent For:

at
intro

<END>

2013 DRAFTING REQUEST

Bill

Received: 1/17/2013	Received By: mshovers
Wanted: As time permits	Same as LRB:
For: André Jacque (608) 266-9870	By/Representing: Jamie
May Contact:	Drafter: mshovers
Subject: Local Gov't - zoning Nat. Res. - wet/shore/flood	Addl. Drafters: rkite
	Extra Copies: EVM

Submit via email: **YES**
 Requester's email: **Rep.Jacque@legis.wisconsin.gov**
 Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Authorize towns to withdraw from county zoning

Instructions:

See attached. Based on 2005 AB 326, and attached modifications.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mshovers 3/13/2013			_____			
/1	mshovers 5/28/2013	evinz 3/14/2013	phenry 3/14/2013	_____	lparisi 3/14/2013		Local
/2		evinz 5/30/2013	rschluet 5/30/2013	_____	srose 5/30/2013		Local

FE Sent For:

<END>

2013 DRAFTING REQUEST**Bill**

Received: **1/17/2013** Received By: **mshovers**
 Wanted: **As time permits** Same as LRB:
 For: **André Jacques (608) 266-9870** By/Representing: **Jamie**
 May Contact: Drafter: **mshovers**
 Subject: **Local Gov't - zoning** Addl. Drafters: **rkite**
Nat. Res. - wet/shore/flood
 Extra Copies: **EVM**

Submit via email: **YES**
 Requester's email: **Rep.Jacque@legis.wisconsin.gov**
 Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Authorize towns to withdraw from county zoning ✓

Instructions:

See attached. Based on 2005 AB 326, and attached modifications.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mshovers 3/13/2013						
/1		evinz 3/14/2013	phenry 3/14/2013		lparisi 3/14/2013		Local

FE Sent For:

<END>

2013 DRAFTING REQUEST

Bill

Received: **1/17/2013** Received By: **mshovers**
 Wanted: **As time permits** Same as LRB:
 For: **Andre Jacque (608) 266-9870** By/Representing: **Jamie**
 May Contact: Drafter: **mshovers**
 Subject: **Local Gov't - zoning** Addl. Drafters: *[Signature]*
Nat. Res. - wet/shore/flood
 Extra Copies: **EVM R N K**

Submit via email: **YES**
 Requester's email: **Rep.Jacque@legis.wisconsin.gov**
 Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Authorize towns to withdraw from county zoning

Instructions:

See attached. Based on 2005 AB 326, and attached modifications.

Drafting History:

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

/? mshovers

1/1 MES 3/12/13
11 ev 3/13/13
3/14 ph
of ph

FE Sent For:

<END>

Shovers, Marc

From: Julian, Jamie
Sent: Wednesday, January 16, 2013 4:51 PM
To: Shovers, Marc
Subject: Draft Request: 2011 AB 260/2005 AB 326

Hello,

We are requesting two bills:

- 1) ~~Redraft of the substitute language to 2011 AB 260~~
- 2) a bill to authorize towns to withdraw from county zoning (2005 AB 326)
 - a. please note these departures from 2001 AN 326:
 - i. Effective Jan. 1 2015 with the option to withdraw available in three year increments effective Jan. 1, 2018, Jan 1, 2021, etc....
 - ii. The town under the county zoning be required to give notice at least six months in advance of the withdrawal date – by July 1, 2014 for withdrawal on Jan 1, 2015
 - iii. The withdrawal is not subject to county approval nor is any subsequent town zoning ordinance subject to county zoning under Sec. 60.62 (3) – repeal this subsection
The bill is not to affect any existing town zoning ordinances that have been adopted prior to the effective date of the bill
 - iv. The draft should not affect any existing requirements on county shoreland zoning
 - v. In a county that has county zoning that has received notice of withdrawal from one or more towns prior to July 1 in any year prior to the identified years in 1 above, the county board may decide to repeal the county comprehensive zoning ordinance by giving notice to all towns in the county by oct 1 prior to the year of repeal
 - vi. This bill draft should not include a requirement (2005 AB 326 at page 5 lines 18-21) that the town zoning ordinance be as restrictive as the county ordinance
 - vii. This bill draft should not include a requirement (2005 AB 326 at page 5 lines 18-21) that the town zoning ordinance be as restrictive as the county ordinance

Let me know if there are any questions.

Thank you,

Jamie Julian

Office of Rep. André Jacques
2nd Assembly District

Room 123 West
State Capitol
P.O. Box 8953
Madison, WI 53708

(608) 266-9870

base bill
INSTRUCTIONS

2005 ASSEMBLY BILL 326

April 15, 2005 – Introduced by Representatives KERKMAN, OWENS, AINSWORTH, ALBERS, BALLWEG, BIES, FREESE, GRONEMUS, HINES, KESTELL, F. LASEE, LEMAHIEU, LOTHIAN, MUSSER, NASS, PETTIS, VOS, VRUWINK and GARD, cosponsored by Senators A. LASEE and BRESKE. Referred to Committee on Rural Development.

- 1 AN ACT *to repeal* 60.62 (3); *to amend* 59.69 (3) (a), 59.69 (3) (b), 59.69 (5) (c),
- 2 60.62 (1), 60.62 (2) and 66.0307 (7m); and *to create* 59.69 (5m), 60.23 (32) and
- 3 60.62 (5) of the statutes; **relating to:** authorizing towns to withdraw from
- 4 county zoning and requiring certain towns to become subject to town or county
- 5 zoning and a comprehensive plan.

Analysis by the Legislative Reference Bureau

Under current law, if a town board has been granted the authority to exercise village powers, the town board may adopt zoning ordinances under the zoning statutes that apply to cities and villages, subject to a number of conditions. If the county in which the town is located has enacted a county zoning ordinance, town zoning ordinances may not take effect until such ordinances are approved either by a town meeting or by a referendum vote of the electors of the town and are approved by the county board. In addition, in counties having a zoning ordinance, no town zoning ordinance, or amendment of a zoning ordinance, may be adopted by the town unless approved by the county board; the bill repeals this provision.

Under the bill, beginning in 2011, a town board may adopt zoning ordinances under the city and village statutes without receiving approval for such zoning ordinances by the town meeting or by referendum.

Also under current law, a county zoning ordinance may not take effect in a town unless it has been approved by the town board. Once a town board has approved a county zoning ordinance, the town may not withdraw its approval.

ASSEMBLY BILL 326

Under this bill, a town board may enact an ordinance withdrawing from coverage of a county zoning ordinance and a county development plan. A town board may enact the ordinance during 2011, or during the one-year period every five years after January 1, 2011. Such an ordinance may not take effect unless the town clerk notifies the county clerk of the proposed ordinance and the town enacts, and sends copies to the county clerk, a town zoning ordinance, a comprehensive plan, and an official map. County board approval of a town zoning ordinance is not required if the town has withdrawn from county zoning. The town zoning ordinance and comprehensive plan must be consistent with each other and the zoning ordinance must be at least as restrictive as the county zoning ordinance that applies to the town on January 1 of the year before the year in which the town board enacts the ordinance withdrawing from county zoning.

The bill authorizes a county board, anytime after December 31, 2010, to enact an ordinance to repeal all of its zoning ordinances, other than shoreland and floodplain zoning ordinances, if it notifies all of the towns that are subject to its zoning ordinances. Such a county ordinance must have a delayed effective date of one year. If a town is so notified, it must enact a zoning ordinance, comprehensive plan, and official map to take effect on the effective date of the county's repeal of its zoning ordinance. The town ordinance and comprehensive plan must be consistent with each other.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 59.69 (3) (a) of the statutes is amended to read:

2 59.69 (3) (a) ~~The Subject to s. 60.23 (2), the~~ ³⁴ county zoning agency may direct
3 the preparation of a county development plan or parts of the plan for the physical
4 development of the unincorporated territory within the county and areas within
5 incorporated jurisdictions whose governing bodies by resolution agree to having
6 their areas included in the county's development plan. The plan may be adopted in
7 whole or in part and may be amended by the board and endorsed by the governing
8 bodies of incorporated jurisdictions included in the plan. The county development
9 plan, in whole or in part, in its original form or as amended, is hereafter referred to
10 as the development plan. Beginning on January 1, 2010, if the county engages in any

ASSEMBLY BILL 326

1 program or action described in s. 66.1001 (3), the development plan shall contain at
2 least all of the elements specified in s. 66.1001 (2).

3 **SECTION 2.** 59.69 (3) (b) of the statutes is amended to read:

4 59.69 (3) (b) The development plan shall include the master plan, if any, of any
5 city or village, that was adopted under s. 62.23 (2) or (3) and the official map, if any,
6 of such city or village, that was adopted under s. 62.23 (6) in the county, without
7 change. The development plan shall also include, and integrate, the master plan and
8 the official map of a town that was adopted under s. 60.62 (5) (a) or (c), without
9 change.

10 **SECTION 3.** 59.69 (5) (c) of the statutes is amended to read:

11 59.69 (5) (c) A county ordinance enacted under this section shall not be effective
12 in any town until it has been approved by the town board. If the town board approves
13 an ordinance enacted by the county board, under this section, a certified copy of the
14 approving resolution attached to one of the copies of such ordinance submitted to the
15 town board shall promptly be filed with the county clerk by the town clerk. The
16 ordinance shall become effective in the town as of the date of the filing, which filing
17 shall be recorded by the county clerk in the clerk's office, reported to the town board
18 and the county board, and printed in the proceedings of the county board. The
19 ordinance shall supersede any prior town ordinance in conflict therewith or which
20 is concerned with zoning, except as provided by s. 60.62. A town board may withdraw
21 from coverage of a county zoning ordinance as provided under s. 60.23 (32).

22 **SECTION 4.** 59.69 (5m) of the statutes is created to read:

23 59.69 (5m) TERMINATION OF COUNTY ZONING. (a) Subject to par. ⁵(b) ^{and (c)} at any time
24 after December 31, ~~2010~~ ²⁰¹⁴, a county board may enact an ordinance to repeal all of its

ASSEMBLY BILL 326

SECTION 4

1 zoning ordinances enacted under this section if it so notifies, in writing, all of the
2 towns that are subject to its zoning ordinances.

3 (b) An ordinance enacted under par. (a) shall have a delayed effective date of
4 one year. No county board may repeal under this subsection a county shoreland
5 zoning or floodplain zoning ordinance. *# (c) Cnty may enact ord. under par. (a) only if: 1) receives notice from @ least one town on the cnty btwn 1/1 & 7/1 of year town was withdrawn from cnty.*

6 SECTION 5. 60.23 ³⁴ ~~(32)~~ of the statutes is created to read:

7 60.23 ³⁴ ~~(32)~~ TOWN WITHDRAWAL FROM COUNTY ZONING. (a) Subject to pars. (b) and
8 (c), after December 31, ~~2010~~ ²⁰¹⁴, and before January 1, ~~2012~~ ²⁰¹⁶, and during the one-year
9 period every ³ ~~18~~ years after January 1, ~~2011~~ ²⁰¹⁵, enact an ordinance withdrawing the town
10 from coverage of a county zoning ordinance that had previously been approved under
11 s. 59.69 (5) (c) and from coverage by a county development plan that has been enacted
12 under s. 59.69 (3) (a).

13 (b) Subject to par. (c), an ordinance enacted under par. (a) may not take effect
14 until all of the following occur:

15 1. Not later than ¹⁸⁰ ~~90~~ days before enacting an ordinance under par. (a), the town
16 clerk notifies the county clerk, in writing, of the town's intent to enact an ordinance
17 under par. (a).

18 2. The town enacts a zoning ordinance under s. 60.62, a comprehensive plan
19 under s. 66.1001, and an official map under s. 62.23 (6), and the town clerk sends
20 certified copies of such documents to the county clerk.

21 (c) A zoning ordinance enacted under s. 60.62, a comprehensive plan enacted
22 under s. 66.1001, and an official map established under s. 62.23 (6), that are enacted
23 in conjunction with an ordinance enacted under par. (a), shall all take effect on the
24 first day of the 3rd month beginning after certified copies of the documents are sent
25 to the county clerk under par. (b) 2.

ASSEMBLY BILL 326

1 **SECTION 6.** 60.62 (1) of the statutes is amended to read:

2 60.62 (1) Subject to subs. (2), ~~(3)~~ and (4), if a town board has been granted
3 authority to exercise village powers under s. 60.10 (2) (c), the board may adopt zoning
4 ordinances under s. 61.35.

5 **SECTION 7.** 60.62 (2) of the statutes is amended to read:

6 60.62 (2) If the county in which the town is located has enacted a zoning
7 ordinance under s. 59.69, the exercise of the authority under sub. (1) before January
8 1, 2015 ~~2011~~ is subject to approval by the town meeting or by a referendum vote of the
9 electors of the town held at the time of any regular or special election. The question
10 for the referendum vote shall be filed as provided in s. 8.37.

11 **SECTION 8.** 60.62 (3) of the statutes is repealed.

12 **SECTION 9.** 60.62 (5) of the statutes is created to read:

13 60.62 (5) (a) Subject to par. (b), not later than 60 days before a town board that
14 wishes to withdraw from county zoning and the county development plan may enact
15 an ordinance under s. 60.23 ~~(24)~~³⁴, the town board shall enact a zoning ordinance
16 under this section, an official map under s. 62.23 (6), and a comprehensive plan under
17 s. 66.1001.

18 (b) The zoning ordinance and comprehensive plan enacted under par. (a) shall
19 be consistent with each other ~~and the zoning ordinance shall be at least as restrictive~~
20 as the county zoning ordinance that applies to the town on January 1 of the year
21 before the year in which the town board enacts the ordinance under s. 60.23 (32).

22 (c) If a town receives notification under s. 59.69 (5m) that the county board has
23 repealed its zoning ordinances and development plan, the town board shall enact a
24 zoning ordinance under this section, an official map under s. 62.23 (6), and a
25 comprehensive plan under s. 66.1001, all of which take effect on the effective date

ASSEMBLY BILL 326**SECTION 9**

1 of the county's repeal of its zoning ordinance and development plan. An ordinance
2 and comprehensive plan enacted under this paragraph shall be consistent with each
3 other.

4 **SECTION 10.** 66.0307 (7m) of the statutes is amended to read:

5 66.0307 **(7m)** ZONING IN TOWN TERRITORY. If a town is a party to a cooperative
6 plan with a city or village, the town and city or village may agree, as part of the
7 cooperative plan, to authorize the town, city or village to adopt a zoning ordinance
8 under s. 60.61, 61.35 or 62.23 for all or a portion of the town territory covered by the
9 plan. The exercise of zoning authority by a town under this subsection is not subject
10 to s. 60.61 (3) ~~or 60.62 (3)~~. If a county zoning ordinance applies to the town territory
11 covered by the plan, that ordinance and amendments to it continue until a zoning
12 ordinance is adopted under this subsection. If a zoning ordinance is adopted under
13 this subsection, that zoning ordinance continues in effect after the planning period
14 ceases until a different zoning ordinance for the territory is adopted under other
15 applicable law. This subsection does not affect zoning ordinances adopted under ss.
16 59.692, 87.30 or 91.71 to 91.78.

17 (END)



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-1287/1 *cev*
MES *PRMR*

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

P-NOTE

*WANTED;
FRI*

gm

- 1 AN ACT ...; **relating to:** authorizing towns to withdraw from county zoning and
2 requiring certain towns to ~~become subject to town or county~~ *enact a* zoning and a *ordinance*
3 comprehensive plan.

Analysis by the Legislative Reference Bureau

Under current law, if a town board has been granted the authority to exercise village powers, the town board may enact zoning ordinances using the zoning statutes that are used by cities and villages, subject to a number of conditions. If the county in which the town is located has enacted a county zoning ordinance, town zoning ordinances may not take effect until such ordinances are approved either by a town meeting or by a referendum vote of the electors of the town and are approved by the county board. In addition, in counties having a zoning ordinance, no town zoning ordinance, or amendment of a zoning ordinance, may be adopted by the town unless approved by the county board; the bill repeals this provision.

Under the bill, beginning in 2015, a town board may enact zoning ordinances under the city and village statutes without receiving approval for such zoning ordinances by the town meeting or by referendum.

Also under current law, a county zoning ordinance may not take effect in a town unless it has been approved by the town board. Once a town board has approved a county zoning ordinance, the town may not withdraw its approval.

Under this bill, a town board may enact an ordinance withdrawing from coverage of a county zoning ordinance and a county development plan. A town board may enact the ordinance during 2015, or during the one-year period every three years after January 1, 2015. Such an ordinance may not take effect unless the town

clerk notifies the county clerk of the proposed ordinance and the town enacts, and sends copies to the county clerk, a town zoning ordinance, a comprehensive plan, and an official map. County board approval of a town zoning ordinance is not required if the town has withdrawn from county zoning. The town zoning ordinance and comprehensive plan must be consistent with each other.

If a county clerk receives notice from a town clerk before July 1 that the town intends to withdraw from county zoning, the bill authorizes a county board to enact an ordinance, before October 1, to repeal all of its zoning ordinances, other than shoreland and floodplain zoning ordinances. The county must notify all of the towns that are subject to its zoning ordinances that it intends to enact an ordinance to repeal those ordinances. The county ordinance to repeal its zoning ordinances must have a delayed effective date of one year. If a town is so notified, it must enact a zoning ordinance, comprehensive plan, and official map to take effect on the effective date of the county's repeal of its zoning ordinance. The town ordinance and comprehensive plan must be consistent with each other.

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

X
1 SECTION 1. 59.69 (3) (a) of the statutes is amended to read:

2 59.69 (3) (a) The Subject to s. 60.23 (34), the county zoning agency may direct
3 the preparation of a county development plan or parts of the plan for the physical
4 development of the unincorporated territory within the county and areas within
5 incorporated jurisdictions whose governing bodies by resolution agree to having
6 their areas included in the county's development plan. The plan may be adopted in
7 whole or in part and may be amended by the board and endorsed by the governing
8 bodies of incorporated jurisdictions included in the plan. The county development
9 plan, in whole or in part, in its original form or as amended, is hereafter referred to
10 as the development plan. Beginning on January 1, 2010, or, if the county is exempt
11 under s. 66.1001 (3m), the date under s. 66.1001 (3m) (b), if the county engages in

any program or action described in s. 66.1001 (3), the development plan shall contain at least all of the elements specified in s. 66.1001 (2).

History: 1971 c. 40 s. 93; 1971 c. 86, 224; 1973 c. 274; 1977 c. 205; 1979 c. 233 ss. 2 to 5, 7 and 8; 1979 c. 323; 1981 c. 341, 354, 374; 1983 a. 192 s. 303 (1); 1983 a. 410; 1983 a. 532 s. 36; 1985 a. 29, 136, 196, 281, 316; 1987 a. 161, 395; 1989 a. 80, 201; 1991 a. 255, 269, 316; 1993 a. 16, 27, 246, 327, 400, 446, 491; 1995 a. 27 ss. 9130 (4), 9126 (19); 1995 a. 201 s. 475; Stats. 1995 s. 59.69; 1995 a. 225 s. 174; 1995 a. 227; 1997 a. 3, 35; 1999 a. 9, 148, 185; 2001 a. 16, 30, 50, 105; 2003 a. 214; 2005 a. 26, 79, 81, 112, 171, 208; 2007 a. 11; 2007 a. 20 ss. 1852 to 1857, 9121 (6) (a); 2009 a. 28, 209, 351, 372, 405; 2011 a. 32, 170; s. 35.17 correction in (10) (e) 1.

SECTION 2. 59.69 (3) (b) of the statutes is amended to read:

59.69 (3) (b) The development plan shall include the master plan, if any, of any city or village, that was adopted under s. 62.23 (2) or (3) and the official map, if any, of such city or village, that was adopted under s. 62.23 (6) in the county, without change. The development plan shall also include, and integrate, the master plan and the official map of a town that was adopted under s. 60.62 (5) (a) or (c), without change.

History: 1971 c. 40 s. 93; 1971 c. 86, 224; 1973 c. 274; 1977 c. 205; 1979 c. 233 ss. 2 to 5, 7 and 8; 1979 c. 323; 1981 c. 341, 354, 374; 1983 a. 192 s. 303 (1); 1983 a. 410; 1983 a. 532 s. 36; 1985 a. 29, 136, 196, 281, 316; 1987 a. 161, 395; 1989 a. 80, 201; 1991 a. 255, 269, 316; 1993 a. 16, 27, 246, 327, 400, 446, 491; 1995 a. 27 ss. 9130 (4), 9126 (19); 1995 a. 201 s. 475; Stats. 1995 s. 59.69; 1995 a. 225 s. 174; 1995 a. 227; 1997 a. 3, 35; 1999 a. 9, 148, 185; 2001 a. 16, 30, 50, 105; 2003 a. 214; 2005 a. 26, 79, 81, 112, 171, 208; 2007 a. 11; 2007 a. 20 ss. 1852 to 1857, 9121 (6) (a); 2009 a. 28, 209, 351, 372, 405; 2011 a. 32, 170; s. 35.17 correction in (10) (e) 1.

SECTION 3. 59.69 (3) (e) of the statutes is amended to read:

59.69 (3) (e) ~~A-Except for a town that has adopted a master plan and official map as described in par. (b),~~ a master plan adopted under s. 62.23 (2) and (3) and an official map that is established under s. 62.23 (6) shall control in unincorporated territory in a county affected thereby, whether or not such action occurs before the adoption of a development plan.

History: 1971 c. 40 s. 93; 1971 c. 86, 224; 1973 c. 274; 1977 c. 205; 1979 c. 233 ss. 2 to 5, 7 and 8; 1979 c. 323; 1981 c. 341, 354, 374; 1983 a. 192 s. 303 (1); 1983 a. 410; 1983 a. 532 s. 36; 1985 a. 29, 136, 196, 281, 316; 1987 a. 161, 395; 1989 a. 80, 201; 1991 a. 255, 269, 316; 1993 a. 16, 27, 246, 327, 400, 446, 491; 1995 a. 27 ss. 9130 (4), 9126 (19); 1995 a. 201 s. 475; Stats. 1995 s. 59.69; 1995 a. 225 s. 174; 1995 a. 227; 1997 a. 3, 35; 1999 a. 9, 148, 185; 2001 a. 16, 30, 50, 105; 2003 a. 214; 2005 a. 26, 79, 81, 112, 171, 208; 2007 a. 11; 2007 a. 20 ss. 1852 to 1857, 9121 (6) (a); 2009 a. 28, 209, 351, 372, 405; 2011 a. 32, 170; s. 35.17 correction in (10) (e) 1.

SECTION 4. 59.69 (5) (c) of the statutes is amended to read:

59.69 (5) (c) A county ordinance enacted under this section shall not be effective in any town until it has been approved by the town board. If the town board approves an ordinance enacted by the county board, under this section, a certified copy of the approving resolution attached to one of the copies of such ordinance submitted to the town board shall promptly be filed with the county clerk by the town clerk. The

ordinance shall become effective in the town as of the date of the filing, which filing shall be recorded by the county clerk in the clerk's office, reported to the town board and the county board, and printed in the proceedings of the county board. The ordinance shall supersede any prior town ordinance in conflict therewith or which is concerned with zoning, except as provided by s. 60.62. A town board may withdraw from coverage of a county zoning ordinance as provided under s. 60.23 (34).

History: 1971 c. 40 s. 93; 1971 c. 86, 224; 1973 c. 274; 1977 c. 205; 1979 c. 233 ss. 2 to 5, 7 and 8; 1979 c. 323; 1981 c. 341, 354, 374; 1983 a. 192 s. 303 (1); 1983 a. 410; 1983 a. 532 s. 36; 1985 a. 29, 136, 196, 281, 316; 1987 a. 161, 395; 1989 a. 80, 201; 1991 a. 255, 269, 316; 1993 a. 16, 27, 246, 327, 400, 446, 491; 1995 a. 27 ss. 9130 (4), 9126 (19); 1995 a. 201 s. 475; Stats. 1995 s. 59.69; 1995 a. 225 s. 174; 1995 a. 227; 1997 a. 3, 35; 1999 a. 9, 148, 185; 2001 a. 16, 30, 50, 105; 2003 a. 214; 2005 a. 26, 79, 81, 112, 171, 208; 2007 a. 11; 2007 a. 20 ss. 1852 to 1857, 9/21 (6) (a); 2009 a. 28, 209, 351, 372, 405; 2011 a. 32, 170; s. 35.17 correction in (10) (e) 1.

SECTION 5. 59.69 (5m) of the statutes is created to read:

59.69 (5m) TERMINATION OF COUNTY ZONING. (a) Subject to par. (b), if a county clerk receives a notice from a town clerk under s. 60.23 (34) (b) 1. before July 1 of the year before a year in which a town may withdraw from county zoning under s. 60.23 (34), a county board may enact an ordinance, before October 1 of the year in which the county clerk receives the notice, to repeal all of its zoning ordinances enacted under this section if it so notifies, in writing, all of the towns that are subject to its zoning ordinances.

(b) An ordinance enacted under par. (a) shall have a delayed effective date of one year. No county board may repeal under this subsection a county shoreland zoning or floodplain zoning ordinance.

SECTION 6. 60.23 (34) of the statutes is created to read:

60.23 (34) TOWN WITHDRAWAL FROM COUNTY ZONING. (a) Subject to pars. (b) and (c), after December 31, 2014, and before January 1, 2016, and during the one-year period every 3 years after January 1, 2015, enact an ordinance withdrawing the town from coverage of a county zoning ordinance that had previously been approved under

s. 59.69[✓] (5) (c) and from coverage by a county development plan that has been enacted under s. 59.69[✓] (3) (a).

(b) Subject to par.[✓] (c), an ordinance enacted under par.[✓] (a) may not take effect until all of the following occur:

1. Not later than 180 days before enacting an ordinance under par.[✓] (a), the town clerk notifies the county clerk, in writing, of the town's intent to enact an ordinance under par.[✓] (a).

2. The town enacts a zoning ordinance under s. 60.62[✓], a comprehensive plan under s. 66.1001[✓], and an official map under s. 62.23[✓] (6), and the town clerk sends certified copies of such documents to the county clerk.

(c) A zoning ordinance enacted under s. 60.62[✓], a comprehensive plan enacted under s. 66.1001[✓], and an official map established under s. 62.23[✓] (6), that are enacted in conjunction with an ordinance enacted under par.[✓] (a), shall all take effect on the first day of the 3rd month beginning after certified copies of the documents are sent to the county clerk under par.[✓] (b) 2.

SECTION 7. 60.62[✓] (1) of the statutes is amended to read:

60.62 (1) Except as provided in s. 60.23 (33) and subject to subs. (2)[✓],^{strike} (3) and (4), if a town board has been granted authority to exercise village powers under s. 60.10 (2) (c), the board may adopt zoning ordinances under s. 61.35.

History: 1983 a. 532; 1995 a. 201; 1997 a. 27[✓]; 1999 a. 9, 182; 2005 a. 207; 2009 a. 372.

SECTION 8. 60.62 (2) of the statutes is amended to read:

60.62 (2) If the county in which the town is located has enacted a zoning ordinance under s. 59.69, the exercise of the authority under sub. (1) before January 1, 2015, is subject to approval by the town meeting or by a referendum vote of the

electors of the town held at the time of any regular or special election. The question for the referendum vote shall be filed as provided in s. 8.37.

History: 1983 a. 532; 1995 a. 201; 1997 a. 27^X; 1999 a. 9, 182; 2005 a. 207; 2009 a. 372.

SECTION 9. 60.62 (3) of the statutes is [✓]repealed.

SECTION 10. 60.62 (5) of the statutes is [✓]created to read:

60.62 (5) (a) Subject to par. (b), not later than 60 days before a town board that wishes to withdraw from county zoning and the county development plan may enact an ordinance under s. 60.23[✓] (34), the town board shall enact a zoning ordinance under this section, an official map under s. 62.23[✓] (6), and a comprehensive plan under s. 66.1001[✓].

(b) The zoning ordinance and comprehensive plan enacted under par. (a) shall be consistent with each other.

(c) If a town receives notification under s. 59.69[✓] (5m) that the county board has repealed its zoning ordinances and development plan, the town board shall enact a zoning ordinance under this section, an official map under s. 62.23[✓] (6), and a comprehensive plan under s. 66.1001[✓], all of which take effect on the effective date of the county's repeal of its zoning ordinance and development plan. An ordinance and comprehensive plan enacted under this paragraph shall be consistent with each other.

^X
SECTION 11. 66.0307 (7m) of the statutes is amended to read:

66.0307 (7m) ZONING IN TOWN TERRITORY. If a town is a party to a cooperative plan with a city or village, the town and city or village may agree, as part of the cooperative plan, to authorize the town, city or village to adopt a zoning ordinance under s. 60.61[✓], 61.35[✓] or 62.23[✓] for all or a portion of the town territory covered by the plan. The exercise of zoning authority by a town under this subsection is not subject

1 to s. 60.61 (3) ~~or 60.62 (3)~~. If a county zoning ordinance applies to the town territory
2 covered by the plan, that ordinance and amendments to it continue until a zoning
3 ordinance is adopted under this subsection. If a zoning ordinance is adopted under
4 this subsection, that zoning ordinance continues in effect after the planning period
5 ceases until a different zoning ordinance for the territory is adopted under other
6 applicable law. This subsection does not affect zoning ordinances adopted under s.
7 59.692 or 87.30 or ch. 91.

History: 1991 a. 269; 1993 a. 213, 301, 329, 399; 1995 a. 35, 201, 216, 227; 1997 a. 27, 35; 1999 a. 150 s. 67; Stats. 1999 s. 66.0307; 1999 a. 182 s. 199; 2001 a. 30; 2007
a. 43; 2009 a. 28; 2011 a. 75.

8 (END)

D-NOTE

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-12877¹dn

MES.....
J tea

(date)

Rep. Jacque:

I believe that this bill is consistent with your instructions. I was wondering, however, if you'd like any changes made to s. 59.69(9) (a), which allows a county to zone and rezone county-owned lands located in a town, without securing town board approval, if the county provides notice to the town board. I don't think there's any legal conflict between this provision and the changes to town and county zoning law contained in this bill, but I thought you should be aware of this provision in case it is inconsistent with your intent. Please let me know if you'd like s. 59.69 (9) to be amended in your bill.

Marc E. Shovers
Managing Attorney
Phone: (608) 266-0129
E-mail: marc.shovers@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1287/1dn
MES:eev:ph

March 14, 2013

Rep. Jacque:

I believe that this bill is consistent with your instructions. I was wondering, however, if you'd like any changes made to s. 59.69 (9) (a), which allows a county to zone and rezone county-owned lands located in a town, without securing town board approval, if the county provides notice to the town board. I don't think there's any legal conflict between this provision and the changes to town and county zoning law contained in this bill, but I thought you should be aware of this provision in case it is inconsistent with your intent. Please let me know if you'd like s. 59.69 (9) to be amended in your bill.

Marc E. Shovers
Managing Attorney
Phone: (608) 266-0129
E-mail: marc.shovers@legis.wisconsin.gov

Shovers, Marc

From: Shovers, Marc
Sent: Wednesday, May 15, 2013 12:02 PM
To: Julian, Jamie
Subject: RE: Requested: /2 of 1287

*Pick Stadelman
called 5/24 &
said their goal
is to just
remove
bill 56 from
the 11*

Hi Jamie:

I'm not sure what you want to do. You said you want to "keep elector approval", but that is not the state of current law. This provision of current law does not involve elector approval. Currently, s. 59.69 (9) (a) says the following:

(9) ZONING OF COUNTY-OWNED LANDS.

59.69(9)(a)

(a) The county board may by ordinance zone and rezone lands owned by the county without necessity of securing the approval of the town boards of the towns wherein the lands are situated and without following the procedure outlined in sub. (5), provided that the county board shall give written notice to the town board of the town wherein the lands are situated of its intent to so rezone and shall hold a public hearing on the proposed rezoning ordinance and give notice of the hearing by posting in 5 public places in the town.

This current law provision is not inconsistent with your bill. The drafter's note just raises the point that, in light of the bill's provisions which allow towns to withdraw from county zoning, perhaps s. 59.69 (9) (a) is inconsistent with your intent as reflected in the bill.

I think you have a number of options. As the bill does not conflict with current law, you can do nothing. This provision of current law may not be burdensome to towns, but I don't know if that's the case in the "real world."

If you believe that s. 59.69 (9) (a) is inconsistent with your intent as expressed in the bill, you could amend s. 59.69 (9) (a). One possibility would be to allow the county board to rezone county owned lands, but to require county board approval.

Another option would be to require a referendum, as you suggest in your email ("elector approval"), although it seems to me that requiring a referendum on what are probably infrequent and minor county zoning changes to county owned lands would be costly and burdensome to towns. I just don't know to what extent this provision is problematical for towns, or even if the provision is burdensome to towns at all.

You may wish to consult the Wisconsin Towns Association to see how often this current law provision in s. 59.69 (9) (a) is used by counties to determine whether any change is needed and, if so, what the Towns Association recommends.

Please let me know if you'd like to discuss this matter and how you'd like to proceed. Thanks, Jamie.

Marc

From: Julian, Jamie
Sent: Wednesday, May 15, 2013 9:13 AM
To: Shovers, Marc
Subject: FW: Requested: /2 of 1287

Hi – did we get this back?

Jamie Julian

Office of Rep. André Jacque
2nd Assembly District

Room 123 West
State Capitol
P.O. Box 8952
Madison, WI 53709

(608) 266-9870

From: Julian, Jamie
Sent: Tuesday, April 23, 2013 12:40 PM
To: Shovers, Marc
Subject: Requested: /2 of 1287

Hi Marc,

Please change LRB 1287 to reflect the changes in your /1dn. We would like to keep town elector approval – I'm not sure if that involves changing 59.69(9) or deleting section 8.

Thank you,

Jamie Julian

Office of Rep. André Jacque
2nd Assembly District

Room 123 West
State Capitol
P.O. Box 8952
Madison, WI 53709

(608) 266-9870

Shovers, Marc

From: Julian, Jamie
Sent: Tuesday, April 23, 2013 12:40 PM
To: Shovers, Marc
Subject: Requested: /2 of 1287

Hi Marc,

Please change LRB 1287 to reflect the changes in your /1dn. We would like to keep town elector approval – I'm not sure if that involves changing 59.69(9) or deleting section 8.

Thank you,

Jamie Julian

Office of Rep. André Jacque
2nd Assembly District

Room 123 West
State Capitol
P.O. Box 8952
Madison, WI 53709

(608) 266-9870



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-1287/1

MES:eev:ph

RMA Stays

2013 BILL

soon

repeal

1 AN ACT *to repeal* 60.62 (3); *to amend* 59.69 (3) (a), 59.69 (3) (b), 59.69 (3) (e),
2 59.69 (5) (c), 60.62 (1), 60.62 (2) and 66.0307 (7m); and *to create* 59.69 (5m),
3 60.23 (34) and 60.62 (5) of the statutes; **relating to:** authorizing towns to
4 withdraw from county zoning and requiring certain towns to enact a zoning
5 ordinance and a comprehensive plan.

Analysis by the Legislative Reference Bureau

Under current law, if a town board has been granted the authority to exercise village powers, the town board may enact zoning ordinances using the zoning statutes that are used by cities and villages, subject to a number of conditions. If the county in which the town is located has enacted a county zoning ordinance, town zoning ordinances may not take effect until such ordinances are approved either by a town meeting or by a referendum vote of the electors of the town and are approved by the county board. In addition, in counties having a zoning ordinance, no town zoning ordinance, or amendment of a zoning ordinance, may be adopted by the town unless approved by the county board; the bill repeals this provision.

~~Under the bill, beginning in 2015, a town board may enact zoning ordinances under the city and village statutes without receiving approval for such zoning ordinances by the town meeting or by referendum.~~

Also under current law, a county zoning ordinance may not take effect in a town unless it has been approved by the town board. Once a town board has approved a county zoning ordinance, the town may not withdraw its approval.

BILL

Under this bill, a town board may enact an ordinance withdrawing from coverage of a county zoning ordinance and a county development plan. A town board may enact the ordinance during 2015, or during the one-year period every three years after January 1, 2015. Such an ordinance may not take effect unless the town clerk notifies the county clerk of the proposed ordinance and the town enacts, and sends copies to the county clerk, a town zoning ordinance, a comprehensive plan, and an official map. County board approval of a town zoning ordinance is not required if the town has withdrawn from county zoning. The town zoning ordinance and comprehensive plan must be consistent with each other.

If a county clerk receives notice from a town clerk before July 1 that the town intends to withdraw from county zoning, the bill authorizes a county board to enact an ordinance, before October 1, to repeal all of its zoning ordinances, other than shoreland and floodplain zoning ordinances. The county must notify all of the towns that are subject to its zoning ordinances that it intends to enact an ordinance to repeal those ordinances. The county ordinance to repeal its zoning ordinances must have a delayed effective date of one year. If a town is so notified, it must enact a zoning ordinance, comprehensive plan, and official map to take effect on the effective date of the county's repeal of its zoning ordinance. The town ordinance and comprehensive plan must be consistent with each other.

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 59.69 (3) (a) of the statutes is amended to read:

2 59.69 (3) (a) The Subject to s. 60.23 (34), the county zoning agency may direct
3 the preparation of a county development plan or parts of the plan for the physical
4 development of the unincorporated territory within the county and areas within
5 incorporated jurisdictions whose governing bodies by resolution agree to having
6 their areas included in the county's development plan. The plan may be adopted in
7 whole or in part and may be amended by the board and endorsed by the governing
8 bodies of incorporated jurisdictions included in the plan. The county development
9 plan, in whole or in part, in its original form or as amended, is hereafter referred to
10 as the development plan. Beginning on January 1, 2010, or, if the county is exempt
11 under s. 66.1001 (3m), the date under s. 66.1001 (3m) (b), if the county engages in

BILL

1 any program or action described in s. 66.1001 (3), the development plan shall contain
2 at least all of the elements specified in s. 66.1001 (2).

3 **SECTION 2.** 59.69 (3) (b) of the statutes is amended to read:

4 59.69 (3) (b) The development plan shall include the master plan, if any, of any
5 city or village, that was adopted under s. 62.23 (2) or (3) and the official map, if any,
6 of such city or village, that was adopted under s. 62.23 (6) in the county, without
7 change. The development plan shall also include, and integrate, the master plan and
8 the official map of a town that was adopted under s. 60.62 (5) (a) or (c), without
9 change.

10 **SECTION 3.** 59.69 (3) (e) of the statutes is amended to read:

11 59.69 (3) (e) ~~A~~ Except for a town that has adopted a master plan and official
12 map as described in par. (b), a master plan adopted under s. 62.23 (2) and (3) and an
13 official map that is established under s. 62.23 (6) shall control in unincorporated
14 territory in a county affected thereby, whether or not such action occurs before the
15 adoption of a development plan.

16 **SECTION 4.** 59.69 (5) (c) of the statutes is amended to read:

17 59.69 (5) (c) A county ordinance enacted under this section shall not be effective
18 in any town until it has been approved by the town board. If the town board approves
19 an ordinance enacted by the county board, under this section, a certified copy of the
20 approving resolution attached to one of the copies of such ordinance submitted to the
21 town board shall promptly be filed with the county clerk by the town clerk. The
22 ordinance shall become effective in the town as of the date of the filing, which filing
23 shall be recorded by the county clerk in the clerk's office, reported to the town board
24 and the county board, and printed in the proceedings of the county board. The
25 ordinance shall supersede any prior town ordinance in conflict therewith or which

BILL**SECTION 4**

1 is concerned with zoning, except as provided by s. 60.62. A town board may withdraw
2 from coverage of a county zoning ordinance as provided under s. 60.23 (34).

3 **SECTION 5.** 59.69 (5m) of the statutes is created to read:

4 **59.69 (5m) TERMINATION OF COUNTY ZONING.** (a) Subject to par. (b), if a county
5 clerk receives a notice from a town clerk under s. 60.23 (34) (b) 1. before July 1 of the
6 year before a year in which a town may withdraw from county zoning under s. 60.23
7 (34), a county board may enact an ordinance, before October 1 of the year in which
8 the county clerk receives the notice, to repeal all of its zoning ordinances enacted
9 under this section if it so notifies, in writing, all of the towns that are subject to its
10 zoning ordinances.

11 (b) An ordinance enacted under par. (a) shall have a delayed effective date of
12 one year. No county board may repeal under this subsection a county shoreland
13 zoning or floodplain zoning ordinance.

14 **SECTION 6.** 60.23 (34) of the statutes is created to read:

15 **60.23 (34) TOWN WITHDRAWAL FROM COUNTY ZONING.** (a) Subject to pars. (b) and
16 (c), after December 31, 2014, and before January 1, 2016, and during the one-year
17 period every 3 years after January 1, 2015, enact an ordinance withdrawing the town
18 from coverage of a county zoning ordinance that had previously been approved under
19 s. 59.69 (5) (c) and from coverage by a county development plan that has been enacted
20 under s. 59.69 (3) (a).

21 (b) Subject to par. (c), an ordinance enacted under par. (a) may not take effect
22 until all of the following occur:

23 1. Not later than 180 days before enacting an ordinance under par. (a), the town
24 clerk notifies the county clerk, in writing, of the town's intent to enact an ordinance
25 under par. (a).

BILL

1 2. The town enacts a zoning ordinance under s. 60.62, a comprehensive plan
2 under s. 66.1001, and an official map under s. 62.23 (6), and the town clerk sends
3 certified copies of such documents to the county clerk.

4 (c) A zoning ordinance enacted under s. 60.62, a comprehensive plan enacted
5 under s. 66.1001, and an official map established under s. 62.23 (6), that are enacted
6 in conjunction with an ordinance enacted under par. (a), shall all take effect on the
7 first day of the 3rd month beginning after certified copies of the documents are sent
8 to the county clerk under par. (b) 2.

9 **SECTION 7.** 60.62 (1) of the statutes is amended to read:

10 60.62 (1) Except as provided in s. 60.23 (33) and subject to subs. (2), (3) and (4),
11 if a town board has been granted authority to exercise village powers under s. 60.10
12 (2) (c), the board may adopt zoning ordinances under s. 61.35.

13 **SECTION 8.** 60.62 (2) of the statutes is amended to read:

14 60.62 (2) ~~If the county in which the town is located has enacted a zoning~~
15 ~~ordinance under s. 59.69, the exercise of the authority under sub. (1) before January~~
16 ~~1, 2015, is subject to approval by the town meeting or by a referendum vote of the~~
17 ~~electors of the town held at the time of any regular or special election. The question~~
18 ~~for the referendum vote shall be filed as provided in s. 8.37.~~

19 **SECTION 9.** 60.62 (3) of the statutes is repealed.

20 **SECTION 10.** 60.62 (5) of the statutes is created to read:

21 60.62 (5) (a) Subject to par. (b), not later than 60 days before a town board that
22 wishes to withdraw from county zoning and the county development plan may enact
23 an ordinance under s. 60.23 (34), the town board shall enact a zoning ordinance
24 under this section, an official map under s. 62.23 (6), and a comprehensive plan under
25 s. 66.1001.

BILL**SECTION 10**

1 (b) The zoning ordinance and comprehensive plan enacted under par. (a) shall
2 be consistent with each other.

3 (c) If a town receives notification under s. 59.69 (5m) that the county board has
4 repealed its zoning ordinances and development plan, the town board shall enact a
5 zoning ordinance under this section, an official map under s. 62.23 (6), and a
6 comprehensive plan under s. 66.1001, all of which take effect on the effective date
7 of the county's repeal of its zoning ordinance and development plan. An ordinance
8 and comprehensive plan enacted under this paragraph shall be consistent with each
9 other.

10 **SECTION 11.** 66.0307 (7m) of the statutes is amended to read:

11 66.0307 (7m) ZONING IN TOWN TERRITORY. If a town is a party to a cooperative
12 plan with a city or village, the town and city or village may agree, as part of the
13 cooperative plan, to authorize the town, city or village to adopt a zoning ordinance
14 under s. 60.61, 61.35 or 62.23 for all or a portion of the town territory covered by the
15 plan. The exercise of zoning authority by a town under this subsection is not subject
16 to s. 60.61 (3) or ~~60.62 (3)~~. If a county zoning ordinance applies to the town territory
17 covered by the plan, that ordinance and amendments to it continue until a zoning
18 ordinance is adopted under this subsection. If a zoning ordinance is adopted under
19 this subsection, that zoning ordinance continues in effect after the planning period
20 ceases until a different zoning ordinance for the territory is adopted under other
21 applicable law. This subsection does not affect zoning ordinances adopted under s.
22 59.692 or 87.30 or ch. 91.

23 (END)

Rose, Stefanie

From: Julian, Jamie
Sent: Wednesday, October 30, 2013 11:24 AM
To: LRB.Legal
Subject: Draft Review: LRB -1287/2 Topic: Authorize towns to withdraw from county zoning

Please Jacket LRB -1287/2 for the ASSEMBLY.